



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Planning Commission
Through: Townsley Schwab, Sr. Acting Director of Planning & Environmental Resources *h. FORT.S*
From: Barbara Bauman, Sr. Planning Technician
Date: October 1, 2008
Subject: *Request for a 2COP Alcohol Beverage Special Use Permit*
Tavernier Towne Cinemas, 91298 Overseas Highway, Key Largo, Florida
Mile Marker 99, Real Estate No. 00089910.000100

Meeting: October 8, 2008

1 I REQUEST:

2
3 A. Proposal: The applicant is requesting a 2COP alcoholic beverage special use
4 permit for beer and wine on premise.

5
6 B. Location:

7 Address: 91298 Overseas Highway (US 1), Key Largo, Mile Marker 91
8 (bayside)

9 Legal Description: Part Lot 15 & part Government Lot 2, Sections 33 &
10 34, Township 62 South, Range 38 East, Key Largo

11 Real Estate (RE) Number: 00089910.000100
12

13 C. Applicant:

14 Property Owner: Max D. Puyanik, Trustee for Trust No. 201

15 Agent/Business Owner: Sam Nekhailo
16

17 II RELEVANT PRIOR COUNTY ACTIONS:

18
19 The existing site plan was approved under a major conditional use permit, last
20 modified in 2003 with the recording of Planning Commission Resolution No. P67-
21 02. The major conditional use permit and site plan was also amended in 1998 with
22 the recording of Resolution P5-98.
23

24 III BACKGROUND INFORMATION:

25
26 A. Size of Site: 671,711 ft² (15.42 acres)

27 Size of Cinema: 10,368 ft²

- B. Land Use District: Urban Commercial (UC)
C. Future Land Use Map (FLUM) Designation: Mixed Use/Commercial (MC)
D. Tier Designation: Tier 3
E. Existing Use: Commercial
F. Existing Vegetation / Habitat: Developed
G. Community Character of Immediate Vicinity: Mixed Use (Commercial Retail, Office, Restaurant, Hospital)
H. Flood Zone: AE – EL 9 / AE - EL 8

IV REVIEW OF APPLICATION:

Pursuant to MCC §19-218(e), the Planning Commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:

- (1) *The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises:*

The area surrounding the site is comprised of commercial properties, developed with retail stores, restaurants, banks, a grocery, offices and a hospital. Many of the existing retail stores and restaurants in the immediate vicinity sell and serve alcoholic beverages. Furthermore, concerning the site, several alcoholic beverage special use permits have already been issued for other businesses on the subject property (Tavernier Towne):

Approved Alcohol Beverage Special Use Permits on the Site:

Surrounding Properties	Business Type	Type Permit
Anthony's Café	Restaurant	2COP – BEER & WINE on premise
Great Wall Chinese Restaurant	Restaurant	2COP – BEER & WINE on premise
Winn Dixie Store	Grocery	2APS – BEER & WINE package
Dillon's Pub House / Bill's Liquors	Pub / Package Store	5COP – BEER, WINE & LIQUOR on premise and package

Staff has determined that the granting of a 2COP alcoholic special use permit would not result in any detrimental impacts to surrounding properties and the immediate neighborhood.

- (2) *The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties will be soundproofed. In the event music and entertainment is permitted, the premises shall be air conditioned:*

Staff has found that the physical location, characteristics and intended purpose of the cinema is suitable for a 2COP alcoholic beverage special use permit. As

required, Staff shall require that lighting be shuttered and shielded from surrounding properties and that the building be soundproofed and air conditioned.

(3) Access, traffic generation, road capacities, and parking requirements:

Access to and from the cinema is from two existing entry drives from US 1. The site is developed under a major conditional use permit and at the time of the last site plan approval in 2003, it was found that the parking and road capacities were adequate for all uses on the site, including the cinema. The business owner states that there will be no additional traffic as a result of adding beer and wines sales. The County's traffic consultant, Raj Shanmugam, concurred that for this type of business, allowing alcohol sales of beer and wine for consumption on site would not affect existing traffic generation to the site. Therefore, Staff has determined that the site is suitable with regards to access, traffic generation, road capacities and parking requirements.

(4) Demands upon utilities, community facilities and public services.

Staff has found that the granting of a 2COP alcoholic beverage special use permit would not place further demands upon utilities, community facilities and public services.

(5) Compliance with the county's restrictions or requirements and any valid regulations.

Alcoholic beverage use permits may be granted in the following land use districts: Urban Commercial (UC); Sub Urban Commercial (SC); Suburban Residential (SR) where the site abuts US 1; Destination Resort (DR); Mixed Use (MU); Industrial (I) and Maritime Industries (MI). Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located.

The subject property is within an UC District and the cinema is an approved use.

V RECOMMENDATION:

Staff recommends APPROVAL to the Planning Commission for a 2COP alcoholic beverage special use permit with the following condition:

- A. Alcoholic beverage use permits issued by virtue of the Monroe County Code shall be deemed to be a privilege running with the land. The sale of the real property which has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.

1 **Attachment: Monroe County Code Section 19-218. Alcoholic Beverages**

2
3 (a) *Purpose and Intent:* This section is designed and intended to provide for reasonable
4 regulation and control over the sale of alcoholic beverages within the unincorporated
5 areas of Monroe County by establishing an alcoholic beverage use permit procedure and
6 providing criteria to be utilized to assure that all future proliferation of alcoholic beverage
7 use enterprises within the unincorporated areas of the county be compatible with
8 adjoining and surrounding land uses and the county's comprehensive plan, and that
9 alcoholic beverage use permits not be granted where such uses will have an adverse
10 impact upon the health, safety and welfare of the citizens and residents of the county. All
11 persons, firms, partnerships or corporations who have received approval from the zoning
12 board or board of county commissioners under the former provisions of section 19-218 of
13 the Monroe County Code, as same heretofore existed, shall retain all rights and privileges
14 heretofore granted under said section.
15

16 (b) *Permits:* After the effective date of this ordinance, all persons, firms, partnerships or
17 corporations desiring to sell alcoholic beverages upon any premises located within the
18 unincorporated areas of Monroe County and who desire to do so upon a premises not
19 heretofore approved by the zoning board or board of county commissioners under the
20 former section 19-218, shall obtain an alcoholic beverage use permit utilizing the
21 procedure outlined in subsection (d) below.
22

23 (c) *Classifications:* Corresponding to those alcoholic beverage license classifications as
24 heretofore and hereafter adopted by the State of Florida, alcoholic beverage use permits
25 hereafter issued pursuant to this ordinance shall be classified as follows:

- 26 (1) 1APS: Beer, package only;
27 (2) 1COP: Beer, on-premises and package;
28 (3) 2APS: Beer and wine, package only;
29 (4) 2COP: Beer and wine, on-premises and package;
30 (5) 6COP: Beer, wine and liquor, on-premises and package;
31 (6) 6COP SRX: Restaurant, no package sales;
32 (7) 6COP SR: Restaurant, package sale;
33 (8) 6COP S: Motel, package sales;
34 (9) 6COP SBX: Bowling, no package sales;
35 (10) 6COP SPX: Boat, no package sales;
36 (11) 3BPS: Beer, wine and liquor, package sales only;
37 (12) 3M: Additional license for 6COP, over three (3) bars;
38 (13) 12RT: Racetrack, liquor, no package sales.
39

40 (d) *Procedure:* The following procedure shall be followed on any application for an
41 alcoholic beverage use permit hereafter made:

- 42 (1) Applications for alcoholic beverage use permits shall be submitted to the
43 director of planning in writing on forms provided by the director. Such
44 applications must be signed by the owner of the real property for which the permit
45 is requested. Lessees of the premises may apply for such permits provided that
46 proper authorization from the owner of the premises is given and the application
47 for permit is cosigned by such owner.

1 (2) Upon receipt of a properly completed and executed application for alcoholic
2 beverage use permit stating the exact classification requested along with the
3 necessary fee, the director of planning shall schedule a public hearing before the
4 planning commission and shall advise the applicant of the date and place of said
5 public hearing.

6 (3) Notice of the application and of the public hearing thereon shall be mailed by
7 the director of planning to all owners of real property within a radius of five
8 hundred (500) feet of the affected premises. In the case of a shopping center, the
9 five hundred (500) feet shall be measured from the perimeter of the entire
10 shopping center itself rather than from the individual unit for which approval is
11 sought. Notice shall also be provided in a newspaper of general circulation in the
12 manner prescribed in section 9.5-45.

13 a. For the purposes of this ordinance, a shopping center shall mean a
14 contiguous group of individual units, in any combination, devoted to
15 commercial retail low-intensity uses, commercial retail medium-intensity
16 uses, commercial retail high-intensity uses, and office uses, as those
17 phrases are defined in section 9.5-4, with immediate off-street parking
18 facilities, and originally planned and developed as a single project. The
19 shopping center's single project status shall not be affected by the nature
20 of the ownership of any of the individual office or commercial retail units,
21 within the shopping center.

22 (4) At the hearing before the planning commission, all persons wishing to speak
23 for or against the application shall be heard. Recommendations or other input
24 from the director of planning may also be heard prior to any decision by the
25 planning commission.
26

27 (e) *Criteria:* The planning commission shall give due consideration to the following
28 factors as they may apply to the particular application prior to rendering its decision to
29 grant or deny the requested permit:

30 (1) The effect of such use upon surrounding properties and the immediate
31 neighborhood as represented by property owners within five hundred (500) feet of
32 the premises. For the purposes of this section, "premises" shall mean the entire
33 project site of a shopping center.

34 (2) The suitability of the premises in regard to its location, site characteristics
35 and intended purpose. Lighting on the permitted premises shall be shuttered and
36 shielded from surrounding properties, and construction of such permitted
37 properties will be soundproofed. In the event music and entertainment is
38 permitted, the premises shall be air conditioned.

39 (3) Access, traffic generation, road capacities, and parking requirements.

40 (4) Demands upon utilities, community facilities and public services.

41 (5) Compliance with the county's restrictions or requirements and any valid
42 regulations.
43

44 (f) *Approval by Planning Commission:* The planning commission may grant approval
45 based on reasonable conditions considering the criteria outlined herein.
46

1 (g) *Where Permitted:* Alcoholic beverage use permits may be granted in the following
2 land use districts: urban commercial; suburban commercial; suburban residential where
3 the site abuts U.S. 1; destination resort; mixed use; industrial and maritime industries.
4 Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants,
5 hotels, marinas and campgrounds regardless of the land use district in which they are
6 located. Nothing contained herein shall exempt an applicant from obtaining a major or
7 minor conditional use approval when such is otherwise required by the Monroe County
8 Development Regulations [chapter 9.5].
9

10 (h) *Transferability:* Alcoholic beverage use permits issued by virtue of this section shall
11 be deemed to be a privilege running with the land. The sale of the real property which has
12 been granted an alcoholic beverage use permit shall automatically vest the purchaser
13 thereof with all rights and obligations originally granted or imposed to or on the
14 applicant. Such privilege may not be separated from the fee simple interest in the realty.
15

16 (i) *Appeals:* All persons aggrieved by the actions of the planning commission in
17 granting or denying requested alcoholic beverage permits may request an appeal hearing
18 before a hearing officer under the hearing officer appellate article (art. XIV, chap. 9.5,
19 Monroe County Code) by filing the notice required by that article within thirty (30) days
20 after the date of the written decision of the planning commission.
21

22 (j) *Successive Applications:* Whenever any application for alcoholic beverage approval
23 is denied for failure to meet the substantive requirements of this ordinance, an application
24 for alcoholic beverage approval for all or a portion of the same property shall not be
25 considered for a period of two (2) years unless a super-majority of the planning
26 commission decides that the original decision was based on a material mistake of fact or
27 that there exists changed conditions and new facts, not existing at the time of the original
28 decision, which would justify entertaining a new application before the expiration of the
29 two-year period. However, in the case of a shopping center, as defined in subsection
30 (d)(3)a. of this section, this subsection shall only apply to the commercial retail unit
31 within the shopping center for which approval was sought and not the entire shopping
32 center site itself.

Haberman-Joe

From: Bauman-Barbara
Sent: Thursday, October 02, 2008 9:30 AM
To: Haberman-Joe
Subject: FW: FW: Tav. Towne traffic letter

From: Raj_Shanmugam@URSCorp.com [mailto:Raj_Shanmugam@URSCorp.com]
Sent: Friday, September 05, 2008 3:52 PM
To: Bauman-Barbara
Subject: Re: FW: Tav. Towne traffic letter

Good Afternoon Barbara,

I reviewed the letter submitted by Ms. Nekhailo in support of the 2COP Special Use Permit for the Tavernier Towne Cinema. I agree in theory that the sale of beer and wine will not add new trips to the cinema.

Please let me know if I can be of further assistance.

p.s.: It looks like IKE is heading your way.....stay safe.

Rajendran Shanmugam, P.E.
Vice President / Branch Manager
URS Corporation Southern
The Exchange
3343 West Commercial Boulevard, Suite 100
Fort Lauderdale, FL 33309
Tel: 954.739.1881
Dir: 954.670.2601
Fax: 954.739.1789

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Re: "Bauman-Barbara" <Bauman-Barbara@MonroeCounty-FL.Gov>

"Bauman-Barbara"	To: <Raj_Shanmugam@URSCorp.com>
<Bauman-Barbara@MonroeCounty-FL.Gov>	cc
	Subject: FW: Tav. Towne traffic letter

08/22/2008 04:14 PM

Please the attached letter from the Cinemas owner for traffic approval and the our draft staff report. Please let me know if you agree with the owner.
Application also attached.
Let me know if you need anything else.

10/2/2008

Thank you,
Barb

From: Tedesco-Debby
Sent: Friday, August 22, 2008 3:43 PM
To: Bauman-Barbara
Subject: Tav. Towne traffic letter

This is pretty primitive! Hard to scan even on 11x14! I hope this is what you meant.

Thank you in advance!

*Debby Tedesco,
Staff Assistant
Planning/Growth Management*

HELP US HELP YOU!

Please take a moment to complete our Customer Satisfaction Survey:
http://monroecofl.virtualltownhall.net/Pages/MonroeCoFL_WebDocs/css **Your feedback is important to us!**

Please note: Florida has a very broad public records law. Most written communications to or from the County regarding County business are public record, available to the public and media upon request. Your e-mail communication may be subject to public disclosure.

[attachment "traffic.ltr.Tav.Towne.PDF" deleted by Raj Shanmugam/FtLauderdale/URSCorp]

[attachment "28065 Taveriner Cinemas SR PC092408.doc" deleted by Raj

Shanmugam/FtLauderdale/URSCorp] [attachment "28065 Tavernier Towne Cinemas File.pdf" deleted by Raj Shanmugam/FtLauderdale/URSCorp]